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 DENNIS MONTGOMERY and
 11 the MONTGOMERY FAMILY TRUST

12 **UNITED STATES DISTRICT COURT**

13 **DISTRICT OF NEVADA**

14 DENNIS MONTGOMERY and the
 MONTGOMERY FAMILY TRUST,

15 Plaintiffs,

16 vs.

17 ETREPPID TECHNOLOGIES, LLC, WARREN
 18 TREPP, and the UNITED STATES
 DEPARTMENT OF DEFENSE,

19 Defendants.
 20
 21
 22

AND RELATED CASES.

) Case No. 3:06-CV-00056-PMP-VPC
) BASE FILE

) (Consolidated with Case No. 3:06-CV-
) 00145-PMP-VPC)

) **EMERGENCY REQUEST BY**
) **MONTGOMERY PARTIES FOR**
) **STATUS CONFERENCE TO ADDRESS**
) **THE MONTGOMERY PARTIES'**
) **COMPLIANCE WITH THE COURT'S**
) **MAY 7, 2008 ORDER**

1 Plaintiffs Dennis Montgomery and the Montgomery Family Trust (jointly, the
2 “Montgomery Parties”) respectfully request that the Court schedule a telephonic status conference
3 on May 15, 2008 at 1:30 p.m. to address logistical difficulties that the Montgomery Parties are
4 encountering in attempting to comply with this Court’s May 7, 2008 Order requiring the
5 Montgomery Parties to produce by May 19, 2008, among other things: “Documents relating to
6 eTreppid’s technology, including white papers, power point presentations, marketing documents,
7 and correspondence with potential customers.” [May 7, 2008 Order (Docket # 582) at 6.] As
8 explained below, the universe of documents that fall within this description could comprise 1.5
9 million pages of paper. The Montgomery Parties have contacted counsel for the Government and
10 eTreppid Technologies, LLC (“eTreppid”) and understand that they are amenable to, and available
11 for, a telephonic conference with the Court at this time.
12

13
14 For purposes of responding to the May 7 2008 Order in good faith, the Montgomery Parties
15 interpret “eTreppid’s technology” to refer not only to the technology that the Montgomery Parties
16 contributed to eTreppid under the Contribution Agreement at issue in this action, but all technology
17 that eTreppid used to perform work for any agency of the United States Government (the
18 “Government”) as to which eTreppid is claiming ownership. As, the record in this action reflects,
19 the Montgomery Parties contend that technology in the latter category is not owned by eTreppid
20 but is, instead, owned by the Montgomery Parties. For purposes of complying with this Court’s
21 May 7, 2008 Order in good faith, however, the Montgomery Parties are interpreting the terms
22 “eTreppid’s technology” to include all technology used by eTreppid irrespective of the issue of
23 ownership.
24

25 Montgomery has hundreds of thousands of files that could reasonably be characterized as
26 “Documents relating to eTreppid’s technology” under the May 7, 2008 Order (the “Technology
27 Data”). The Technology Data—which consists of files in multiple different formats, including, but
28

1 not limited, “.pdf,” .doc,” “.xls,” “.rtf,” “.txt,” “.bmp,” “.jpg,” “.ppt,” and “.wk3”—is estimated to
2 consist of 350 gigabytes of information. To illustrate the magnitude of this data, printing all of the
3 files comprising the Technology Data would produce at least 1.5 million pages of paper. Nearly
4 every file that constitutes Backup Data could be deemed a document “relating to eTreppid’s
5 technology” under the Court’s May 7, 2008 Order.
6

7 A substantial percentage, i.e., sixty to eighty, of the Technology Data consists of files that
8 the Montgomery Parties reasonably believe could fall within the provision of the U.S. Protective
9 Order (Docket #253) and/or Non-Disclosure Agreements executed by Dennis Montgomery
10 (“Montgomery”) in connection with work he performed for the Government (the “Protected Data”).
11

12 Montgomery, on his own, is physically incapable of segregating the Protected Data from
13 other Technology Data by May 19, 2008. The files are not organized in a manner which enables
14 Montgomery to be able to identify and segregate Protected Data from Technology Data with
15 absolute certainty and confidence without actually looking at each file.

16 In communications with the Government, the Montgomery Parties have proposed to give all
17 of the Technology Data to the Government and let the Government identify the Protected Data.
18 Montgomery would then produce to eTreppid all Technology Data not designated as Protected
19 Data by the Government. The Government is not amenable to this approach. The Government
20 desires that the Montgomery Parties undertake an initial effort to exclude from the Technology
21 Data any files that do not contain Protected Data and provide only that pre-screened data to the
22 Government.
23

24 Under the Government-imposed limitations as to what Montgomery can and cannot
25 turnover to his counsel for their review, Montgomery is the only individual who can make a
26 judgment call as to what files within the Technology Data are Protected Data. Given the
27 magnitude of the Technology Data it is not feasible for one person to do what the Government
28

1 desires. To be assured that no Protected Data is contained in that portion of the Technology Data
2 that is produced to eTreppid, Montgomery would have to individually look at hundreds of
3 thousands of files spanning more than a four-year period. Montgomery is incapable of
4 accomplishing this by May 19, 2008. Indeed, the Montgomery Parties respectfully submit that it is
5 unduly burdensome for Montgomery to have to do this single-handedly regardless of the deadline.
6

7 The Montgomery Parties respectfully request that the Court schedule a telephonic status
8 conference at 1:30 p.m. on Thursday, May 15, 2008 to enable the Montgomery Parties, eTreppid
9 and the Government to address the logistical difficulties that the Montgomery Parties are
10 experiencing in attempt to comply with the Court's May 7, 2008 Order.
11

12 Dated: May 14, 2008

Respectfully submitted,

13
14 LINER YANKELEVITZ
SUNSHINE & REGENSTREIF LLP

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16 By: _____/s/_____
17 Deborah A. Klar
Tuneen E. Chisolm
18 Attorneys for DENNIS MONTGOMERY,
the MONTGOMERY FAMILY TRUST,
19 EDRA BLIXETH, AND OPSPRING LLC
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CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of the Law Offices Of Liner Yankelevitz Sunshine & Regenstreif LLP, and that on **May 9, 2008**, I caused to be served the within document described as **EMERGENCY REQUEST BY MONTGOMERY PARTIES FOR STATUS CONFERENCE TO ADDRESS THE MONTGOMERY PARTIES' COMPLIANCE WITH THE COURT'S MAY 7, 2008 ORDER on the interested parties in this action as stated below:**

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1 delivered a copy of the foregoing document(s) to the persons listed above at
2 their respective email address.

3 ☒ [Federal] I declare that I am employed in the offices of a member of the
4 State Bar of this Court at whose direction the service was made. I declare
under penalty of perjury under the laws of the United States of America that
the above is true and correct.

5 I declare under penalty of perjury under the laws of the State of California and
6 the United States of America that the foregoing is true and correct.

7 Executed on May 14, 2008, at Los Angeles, California

8 Sklar K. Toy

9 (Type or print name)



(Signature)